

Jun 12, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID ANTONIO BECERRIL,

Defendant.

No. 1:23-CR-02029-SAB-1

ORDER FOLLOWING INITIAL
APPEARANCE AND
ARRAIGNMENT

On Monday, June 12, 2023, Defendant made an initial appearance and was arraigned based on the Indictment (ECF No. 1). Defendant was represented by retained counsel Harold Malkin.¹ Special Assistant United States Attorney Allie Jensen represented the United States. With Defendant's consent, Defendant appeared by video from Spokane, Washington.

Defendant was advised of and acknowledged Defendant's rights.

The Court entered pleas of not guilty on Defendant's behalf.

The United States did seek detention.

¹ Mr. Malkin informed the Court that Defendant has not made a final decision regarding legal representation in this matter. However, when given the choice to waive his right to a speedy arraignment, Defendant elected to proceed with the arraignment at the time of this hearing.

1 Accordingly, **IT IS ORDERED:**

2 1. The Court directs the parties to review the Local Criminal Rules
3 governing discovery and other issues in this case. [http://www.waed.uscourts.gov/
4 court-info/local-rules-and-orders/general-orders](http://www.waed.uscourts.gov/court-info/local-rules-and-orders/general-orders).

5 2. Under federal law, including Rule 5(f) of the Federal Rules of
6 Criminal Procedure, *Brady v. Maryland*, 373 U.S. 83 (1963), and all applicable
7 decisions from the Supreme Court and the Ninth Circuit interpreting *Brady*, the
8 United States has a continuing obligation to produce all information or evidence
9 known to the United States relating to guilt or punishment that might reasonably be
10 considered favorable to Defendant's case, even if the evidence is not admissible so
11 long as it is reasonably likely to lead to admissible evidence. *See United States v.*
12 *Price*, 566 F.3d 900, 913 n.14 (9th Cir. 2009). Accordingly, the Court orders the
13 United States to produce to Defendant in a timely manner all such information or
14 evidence.

15 Information or evidence may be favorable to a defendant's case if it either
16 may help bolster the defendant's case or impeach a prosecutor's witness or other
17 government evidence. If doubt exists, it should be resolved in favor of Defendant
18 with full disclosure being made.

19 If the United States believes that a required disclosure would compromise
20 witness safety, victim rights, national security, a sensitive law-enforcement

1 technique, or any other substantial government interest, the United States may
2 apply to the Court for a modification of the requirements of this Disclosure Order,
3 which may include *in camera* review and/or withholding or subjecting to a
4 protective order all or part of the information.

5 This Disclosure Order is entered under Rule 5(f) and does not relieve any
6 party in this matter of any other discovery obligation. The consequences for
7 violating either this Disclosure Order or the United States' obligations under *Brady*
8 include, but are not limited to, the following: contempt, sanction, referral to a
9 disciplinary authority, adverse jury instruction, exclusion of evidence, and
10 dismissal of charges. Nothing in this Disclosure Order enlarges or diminishes the
11 United States' obligation to disclose information and evidence to a defendant under
12 *Brady*, as interpreted and applied under Supreme Court and Ninth Circuit
13 precedent. As the Supreme Court noted, "the government violates the
14 Constitution's Due Process Clause 'if it withholds evidence that is favorable to the
15 defense and material to the defendant's guilt or punishment.'" *Turner v. United*
16 *States*, 137 S. Ct. 1885, 1888 (2017) (quoting *Smith v. Cain*, 565 U.S. 73, 75
17 (2012)).

18 3. Defendant is bound over to Chief Judge Stanley A. Bastian for further
19 proceedings.

20 4. Defendant shall abide by the following conditions at all times:

STANDARD CONDITIONS OF RELEASE

1
2 1. Defendant shall not commit any offense in violation of federal, tribal,
3 state, or local law. Defendant shall advise the supervising United States
4 Probation/Pretrial Services Officer and defense counsel within one business day of
5 any charge, arrest, or contact with law enforcement. Defendant shall not work for
6 the United States government or any federal or state law enforcement agency
7 unless Defendant receives the approval of the district court judge with original
8 jurisdiction over this matter and notifies the supervising United States
9 Probation/Pretrial Services Officer in the captioned matter.

10 2. Defendant shall immediately advise the Court and the United States
11 Attorney in writing before any change in address.

12 3. Defendant shall appear at all proceedings and surrender as directed for
13 service of any sentence imposed.

14 4. Defendant shall sign and complete form A.O. 199C before being
15 released.

16 5. Defendant shall not possess a firearm, destructive device, or any
17 dangerous weapons.

18 6. Defendant shall report to the United States Probation/Pretrial Services
19 Office before or immediately after release and shall report as often as they direct,
20 at such times and in such manner as they direct.

1 7. Defendant shall contact defense counsel at least once a week.

2 8. Defendant shall refrain from use or unlawful possession of a narcotic
3 drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed
4 by a licensed medical practitioner in conformance with Federal law. Defendant
5 may not use or possess marijuana, regardless of whether Defendant has been
6 authorized medical marijuana under state law.

7 9. Defendant shall surrender any passport to United States
8 Probation/Pretrial Services and shall not apply for a new passport.

9 10. Defendant is further advised it is unlawful for any person who is
10 under indictment for a crime punishable by imprisonment for a term exceeding one
11 year, to receive, ship or transport in interstate or foreign commerce any firearm or
12 ammunition or receive any firearm or ammunition which has been shipped or
13 transported in interstate or foreign commerce.

14 **SPECIAL CONDITIONS OF RELEASE**

15 1. Defendant shall remain in the District of Idaho unless given
16 permission by the United States Probation/Pretrial Services Office.

17 2. Defendant shall notify the United States Probation/Pretrial Services
18 Office within 24 hours of any change in address, telephone number, or
19 employment.
20

1 3. Defendant shall notify United States Probation/Pretrial Services
2 before conducting any financial transaction greater than one hundred dollars
3 (\$100.00).

4 **IT IS SO ORDERED.**

5 DATED June 12, 2023.



A handwritten signature in blue ink, reading "Alexander C. Ekstrom", is positioned above a horizontal line.

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE